



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/169012

PRELIMINARY RECITALS

Pursuant to a petition filed September 24, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance (MA), a telephonic hearing was held on November 23, 2015. The record was held open 14 days post-hearing to allow time for petitioner to submit additional information, which was received and forwarded to the DHCAA for reconsideration. On December 3, 2015 the DHCAA issued a letter to the parties indicating that its position was unchanged.

The issue for determination is whether the DHCAA correctly denied prior authorization for Child/Adolescent Day Treatment (CADT) services from August 3-31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Mandy Rattazzi
11904 W North Ave, Ste 110
Wauwatosa, WI 53226

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: written submittal of Jo Ellen Crinion, RN, CP, CPC
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. He is now 5 years old and diagnosed with ODD, Mood Disorder – NOS, and ADHD.
2. On August 4, 2015 petitioner's CADT provider submitted a PA for petitioner to receive CADT services.
3. On August 19, 2015 the DHCAA issued a notice to petitioner stating that the PA was denied because the request did not meet their guidelines.

DISCUSSION

The MA program may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin Code, Chapter DHS 107. Mental health day treatment services can be covered by MA when medically necessary and appropriate. Wis. Admin. Code §DHS 107.13(4). More specifically, CADT can be covered as a "HealthCheck-Other Service," per Wis. Admin. Code §DHS 107.22(4). CADT services are only covered if a prior authorization (PA) request is submitted and approved by the DHCAA in advance of commencement of the service. *Id.*, §(4)(b).

Day treatment services are only to be paid for patients who have an ability to benefit from the service. *Id.*, (4)(a). The DHCAA's policy document, *Wisconsin Medicaid and BadgerCare Update*, No. 2006-20, requires that a CADT prior authorization include a mental status examination with a five-axis diagnosis, to assist in establishing the need for the service.

The DHCAA concluded that the requested CADT was not medically necessary for the petitioner for a variety of reasons. One reason was that the physician's prescription for the CADT did not appear to be made within the one year prior to the date of service. In reviewing the prescription, I can see how the prescription could be misread. However, the petitioner's provider's testimony was that the prescription was received on November 5, 2014 and was evidenced by the fax transmittal codes. The transmittal codes also show that the form was faxed to the physician on November 4, 2014, which coincides with the date signed by the physician. Accordingly, I do not uphold the denial on this basis.

The DHCAA also denied the PA request because it determined that the initial assessment did not meet their requirements. First, it too had discrepancies with the dates. Part of the problem was that petitioner was first seen by the provider in November 2014 (per the prescription discussed above). At that time however, the assessment was put on hold after petitioner's mother discussed petitioner's potential for seizures. Petitioner was then tested through sleep studies and the seizures were ruled out. According to the PA/CADTA, Section III, #11, petitioner had an EEG in November 2014 to rule out seizure disorder. The assessment clearly contains language that was entered when the provider first saw petitioner in November 2014 (e.g., "the mother is currently expecting another baby in December 2014."). However, it is also clear that the full assessment took place in May 2015 as e.g., it states that petitioner was set to "see Dr. [REDACTED] on 7/25/15". There is also an error on the first page stating that the assessment took place in May 2014, however the signatures are May 2015 and the provider's testimony at hearing was to the same effect. It is also corroborated by the PA/CADTA. The May 2015 assessment could not therefore claim petitioner as 5 years old since he had not yet turned 5, and could not have addressed the petitioner's mother's sentencing issues because they had not yet occurred.

The DHCAA also denied the PA because it alleges the provider did not document the CADT services he began receiving on May 26, 2015. However, the provider submitted a letter dated August 4, 2015 along with the PA in which she identified the services, the provider, who participated, goals and objectives, and outcomes.

In the end, I can see how the DHCAA was unable to authorize the service given the sloppy presentation of petitioner's PA. However, given the testimony explaining the errors and the corroborating evidence to support the dates at issue, I will not uphold the denial on these bases.

CONCLUSIONS OF LAW

The Division incorrectly denied the petitioner's prior authorization request for CADT services.

THEREFORE, it is

ORDERED

That Childynamics, LLC is hereby authorized to provide the petitioner CADT services and to submit its claim for services provided from August 3-31, 2015, along with a new prior authorization request and a copy of this Decision, to ForwardHealth for payment. In all other respects, the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of January, 2016

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 22, 2016.

Division of Health Care Access and Accountability
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